

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington DC 20554

Request for an Immediate Ruling

Re: Wireless Strategies Inc. Request for a Declaratory Ruling, WTB Docket No. 07-121, In the Matter of Coordination of Microwave Links under Part 101 of the Commission's Rules.

Dear Ms. Dortch:

I. Introduction

Recommendation 5:10 of the National Broadband Plan states:

“The FCC’s Part 101 microwave rules are intended to enable a high level of service reliability, but they may also limit deployment flexibility in coverage- or capacity-limited situations. Therefore, the FCC should commence a proceeding to update these rules to reduce the cost of backhaul in capacity-limited urban areas and range-limited rural areas. In particular, the proceeding should revise rules consistent with the following:

➤ ➤ *Greater spatial reuse of microwave frequencies, particularly in urban areas.* Public comment has raised the possibility that rule changes could enable more efficient use of spectrum, particularly in the area immediately surrounding a microwave station.¹²⁶ Such changes, it is claimed, could dramatically increase the ability to use spectrum for backhaul in high-congestion areas, especially urban areas. The FCC, in the context of a larger Part 101 proceeding, should expeditiously consider whether the proposal merits changes to the existing rules.”¹

WSI applauds the recommendation for expeditious action as it has been nearly three years since the Commission issued a Public Notice inviting comments on a Request for Declaratory Ruling (“Request”) filed by Wireless Strategies, Inc. (“WSI”) regarding coordination of microwave links under Part 101 of the Commission’s rules and almost six months² since WSI requested an immediate ruling to allow the deployment of Distributed Radiating/Receiving Elements³ (“DREs”) around licensed stations.

¹ Chapter 5, Endnote 126: “Letter from Michael Mulcay, Chairman, Wireless Strategies Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 09-51, WT Docket No. 07-121 (Nov. 4, 2009) at 1; Letter from Richard B. Engelman, Director, Spectrum Resources, Sprint Nextel Corp., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 07-121 (Mar. 12, 2009) at 1–2.

² WSI ex parte filing August 21, 2009

³ A radiating/receiving element that is distributed around a licensed station.

II. FCC Rule Change allows the Deployment of Non-Standard A antennas in Any Area

In Report and Order, WT Docket No. 07-54, the Commission amended Section 101.115 to allow for the universal deployment of small antennas not meeting standard A under certain conditions.

The first sentence of Rule 101.115(f) is restrictive as to a specific frequency band and a specific antenna radiation pattern envelope (RPE) but is general regarding the locations of fixed stations: “In the 10,700–11,700 MHz band, a fixed station may employ transmitting and receiving antennas meeting performance standard B in any area”.

However, it is the protocol of the second and subsequent sentences of Rule 101.115(f) that guarantee no interference regardless of the operating frequency and antenna RPE:

“If a Fixed Service or Fixed Satellite Service licensee or applicant makes a showing that it is likely to receive interference from such fixed station and that such interference would not exist if the fixed station used an antenna meeting performance standard A, the fixed station licensee must modify its use. Specifically, the fixed station licensee must either substitute an antenna meeting performance standard A or operate its system with an EIRP reduced so as not to radiate, in the direction of the other licensee, an EIRP in excess of that which would be radiated by a station using a Category A antenna and operating with the maximum EIRP allowed by the rules. A licensee or prior applicant using an antenna that does not meet performance Standard A may object to a prior coordination notice based on interference only if such interference would be predicted to exist if the licensee or prior applicant used an antenna meeting performance standard A.”

As the Commission has concluded that the protocol of the second and subsequent sentences of Rule 101.115(f) guarantee no interference, if DREs are deployed under the Rule 101.115(f) protocol the Commission has already concluded that such deployment will not cause interference.

Therefore, in support of Recommendation 5:10 of the National Broadband Plan and in order to assist the Commission in taking expeditious positive action, WSI is modifying its request for an immediate ruling to read as a direct quotation of the second and subsequent sentences of Rule 101.115(f). Specifically:

**WSI requests an immediate ruling that a fixed station
may employ a DRE whose transmitting and receiving antennas
do not meet antenna standard A on the following conditions:**

If a Fixed Service or Fixed Satellite Service licensee or applicant makes a showing that it is likely to receive interference from such fixed station and that such interference would not exist if the fixed station used an antenna meeting performance standard A, the fixed station licensee must modify its use. Specifically, the fixed station licensee must either substitute an antenna meeting performance standard A or operate its system with an EIRP reduced so as not to radiate, in the direction of the other licensee, an EIRP in excess of that which would be radiated by a

station using a Category A antenna and operating with the maximum EIRP allowed by the rules. A licensee or prior applicant using an antenna that does not meet performance Standard A may object to a prior coordination notice based on interference only if such interference would be predicted to exist if the licensee or prior applicant used an antenna meeting performance standard A.

In Report and Order, WT Docket No. 07-54, the Commission stated that the reasons for amending Rule 101.115 to allow for the universal deployment of inferior performance Category B (two-foot dia.) antennas instead of the previously required higher performance Category A (four-foot dia.) antennas is because smaller antennas: cost less to manufacture and distribute, are less expensive to install, weigh less, need less structural support, cost less to maintain, and the modest weight and small size make them practical for installation at sites incapable of supporting large dishes -- including many rooftops, electrical transmission towers, water towers, monopoles and other radio towers -- and smaller antennas raise fewer aesthetic objections, thereby permitting easier compliance with local zoning and home owner association rules.

By immediately acting upon WSI's request the Commission will, in addition to the benefits listed above:

- Promote the effective use of spectrum and conserves a finite national resource, especially in urban areas
- Promote innovation
- Allow microwave operators to take advantage of the latest technologies to lower the cost of backhaul and access
- Make it economical to provision broadband services to unserved and underserved communities
- Promote the efficient use of Broadband Stimulus Funding for wireless broadband projects
- Promote the lowering of healthcare costs through the use of Telemedicine due to the lower cost of broadband.

III. A Rule Making Proceeding Would Not Be Opposed

As it may be necessary to amend sections of the rules, add definitions and make explicit what is implicit WSI would not oppose a Rule Making. That said, nearly three years have elapsed since WSI filed its initial Request and it would definitely not be in the public interest to continue to delay a ruling on the deployment of DREs because the benefits of an immediate ruling to allow the deployment of DREs around licensed stations far outweighs the consequences for continuing to delay a decision.

IV. Conclusion and Summary

As the record shows that the deployment of DREs will cause no harmful interference and all the benefits above will become available to the public, especially in urban, unserved and underserved communities, and the Commission will immediately encourage the conservation of one of the nation's precious resources – spectrum - and stimulate industry to invest more in research and development of the effective use of spectrum, and bring to market new innovative lower-cost products and services, WSI requests an immediate Declaratory Ruling that a fixed station may employ a DRE whose transmitting and receiving antennas do not meet antenna standard A on the following conditions:

“If a Fixed Service or Fixed Satellite Service licensee or applicant makes a showing that it is likely to receive interference from such fixed station and that such interference would not exist if the fixed station used an antenna meeting performance standard A, the fixed station licensee must modify its use. Specifically, the fixed station licensee must either substitute an antenna meeting performance standard A or operate its system with an EIRP reduced so as not to radiate, in the direction of the other licensee, an EIRP in excess of that which would be radiated by a station using a Category A antenna and operating with the maximum EIRP allowed by the rules. A licensee or prior applicant using an antenna that does not meet performance Standard A may object to a prior coordination notice based on interference only if such interference would be predicted to exist if the licensee or prior applicant used an antenna meeting performance standard A”.

Wireless Strategies therefore asks that its request be promptly granted.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, this *ex parte* communication is being filed electronically.

Respectfully submitted

Michael Mulcay, Chairman
Wireless Strategies Inc.

cc: Julius Genachowski, Chairman
Michael J. Copps, Commissioner
Robert M. McDowell, Commissioner
Mignon Clyburn, Commissioner
Meredith Attwell Baker, Commissioner
Ruth Milkman, Chief Wireless Telecommunications Bureau
Julius Knapp, Chief Office of Engineering Technology
Bruce Gottlieb, Chief of Staff to Chairman Genachowski
John Giusti, Chief of Staff to Commissioner Copps
Angela E. Giancarlo, Chief of Staff to Commissioner McDowell
Louis Peraertz, Acting Legal Advisor to Commissioner Clyburn
Charles Mathias, Legal Advisor to Commissioner Baker
Joel Taubenblatt, Chief Broadband Division
John Liebovitz, National Broadband Task Force
Tom Peters, National Broadband Task Force